

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

JAE Y. LEE, *et al.*,

Defendants.

CASE NO. CR19-0228-JCC

ORDER

This matter comes before the Court on the Government and Defendants Kevin Puls and Richard Reid's joint motion to continue trial (Dkt. No. 79). Defendants are charged by indictment with Conspiracy to Solicit and Receive Kickbacks Involving Health Care Programs and to Offer and Pay Kickbacks Involving Health Care Programs, in violation of 18 U.S.C. § 371, and Receipt of Kickbacks, in violation of 42 U.S.C. § 1320a-7b(1)(B) and 18 U.S.C. § 2. (Dkt. No. 3.) Trial is currently scheduled for April 26, 2021. (Dkt. No. 67.) The parties ask the Court to continue trial to January 24, 2022. (Dkt. No. 79.) Having thoroughly considered the motion and the relevant record, the Court hereby GRANTS the motion for the reasons explained herein.

Defendants seek a continuance to ensure that defense counsel have adequate time to review discovery and prepare for trial and pretrial motions. The Government has produced significant discovery, and the COVID-19 pandemic has rendered it more difficult for defense

1 counsel to review this material. (Dkt. No. 79 at 3.) The parties represent that accessing discovery
2 from remote locations has been a challenge for defense counsel due to bandwidth limitations and
3 the size of many discovery items. (*Id.*) Further, because of public health restrictions, it has been
4 difficult to ensure that Defendants have an opportunity to review the evidence and to meet in
5 person with potential witnesses. (*Id.*) Defendants have filed waivers of their speedy trial rights up
6 to and including February 7, 2022. (Dkt. Nos. 80, 81.)

7 In addition to affecting trial preparation and communication between Defendants and
8 their counsel, the COVID-19 pandemic has significantly impacted the Court's operations. (*See*
9 General Orders 01-20, 02-20, 07-20, 08-20, 11-20, 13-20, 15-20, 18-20, 04-21 each of which the
10 Court incorporates by reference.)

11 Having thoroughly considered the motion and the relevant record, the Court FINDS that:

- 12 1. The facts set forth in the motion are hereby incorporated by reference and adopted as
13 findings of fact.
- 14 2. The ends of justice served by granting a continuance outweigh the best interests of
15 Defendants and the public to a speedy trial. *See* 18 U.S.C. § 3161(h)(7)(A).
- 16 3. Taking into account the exercise of due diligence, the failure to grant a continuance
17 would deny counsel for Defendants the reasonable time necessary for effective
18 preparation, *see* 18 U.S.C. § 3161(h)(7)(B)(iv), and would therefore result in a
19 miscarriage of justice, *see* 18 U.S.C. § 3161(h)(7)(B)(i).
- 20 4. This case is sufficiently complex that it is unreasonable to expect adequate
21 preparation for trial within the time limits established by the Speedy Trial Act. *See* 18
22 U.S.C. § 3161(h)(7)(B)(ii).
- 23 5. The additional time requested is a reasonable period of delay, as Defendants have
24 requested more time to prepare for trial, to investigate the matter, to gather evidence
25 material to the defense, and to consider possible defenses.

26 Accordingly, the Court ORDERS:

- 1 1. The April 26, 2021 jury trial is CONTINUED until January 24, 2022 at 9:30 a.m.
- 2 2. The March 15, 2021 pretrial motions deadline is CONTINUED to December 6, 2021.
- 3 3. The period from the date of this order until January 24, 2022 is an excludable time
- 4 period under 18 U.S.C. § 3161(h)(7)(A).

5 DATED this 24th day of March 2021.

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8 John C. Coughenour
9 UNITED STATES DISTRICT JUDGE
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